

Memo

March 16, 2005

TO: Planning Commission

FROM: Tom Williams, Sr. Planner, Lower Keys Planning Team

RE: Interim Development Ordinance Deferring the Acceptance of Development Applications for the Redevelopment and Conversion of Five Units or More of Multi-Family Rental Housing and/or Mobile Home Parks

PLANNING COMMISSION MEETING DATE: 3/23/05

Summary

The Board of County Commissioners (BOCC) at a regular meeting on January 19, 2005, directed Growth Management staff to prepare an ordinance deferring the redevelopment applications or issuance of development orders and development permits within unincorporated Monroe County for the redevelopment and conversion of multi-family rental housing and/or mobile home parks to any other use, except for the siting of replacement mobile homes pursuant to Section 723.041(4) F.S., while staff prepares amendments to the 2010 Comprehensive Plan and the Land Development Regulations (LDRs). Any building permit application or planning approval with a submittal date of February 28, 2005 or earlier shall be exempt from the Interim Development Ordinance. The moratorium is to be effective for 365 days or until amendments to the 2010 Comprehensive Plan and LDR become effective, whichever comes first.

Background

The Board of County Commissioners discussed the need for and loss of affordable housing for the County workforce at their meeting of January 19, 2005. The discourse acknowledged that the existing supply of employee and affordable housing is insufficient to meet the current demand for affordable workforce housing. The Rate of Growth Ordinance (ROGO) limits the permits for new housing allocations in the County to maintain hurricane evacuation times. The loss of existing affordable housing through redevelopment is impacting the available supply of such housing for the County workforce. Objective 601.3 of the 2010 Comprehensive Plan directs the County to implement efforts to eliminate substandard housing and to *preserve, conserve and enhance the existing housing stock*. Affordable/employee housing has been identified by the Board of County Commissioners as one of three major commitments in the Partnership Agreement with the State approved by the Board on January 21, 2004.

Economic pressure is increasing to convert existing affordable multi-family rental housing and mobile home parks to different housing types, such as market rate town-

homes and condominiums, that are no longer affordable for the County workforce. A number of owners of multi-family rental and mobile home parks are exploring such conversions, which will further decrease the existing supply of affordable and employee workforce housing. Conversion of existing multifamily rental housing and mobile home parks into residential dwellings (condominiums), often in gated communities for use as “vacation rentals”, will further reduce the availability of housing units that are currently affordable in the County. Chapter 380.0552 (7) F.S., Principals for Guiding Development, requires the County to conduct programs and regulatory activities to (j) *make available adequate affordable housing for all sectors of the population of the Florida Keys.*

In order to make effective the preservation of existing affordable housing while the County prepares regulations to implement the Objective and Guiding Principle of Chapter 380 F.S. it is necessary to temporarily halt redevelopment of existing multi-family housing and mobile home parks. The County recognizes the need to develop comprehensive plan and land development regulations and programs to preserve the existing stock of affordable housing and increase the availability of affordable housing for those who live and work in the Florida Keys. The County has committed necessary staff and resources to the development of permanent policies and regulations.

The utilization of the moratorium device as a temporary measure to facilitate government decision making, study and adoption of comprehensive plan and land development regulations is a legitimate governmental tool to facilitate logical and considered growth and as a means of avoiding inefficient and ill-conceived development. This proposed moratorium is to provide time for staff to finish drafting the amendments, the Planning Commission to review the proposed changes and the public time to consider, understand and comment on the amendments.

Exempt from this ordinance is the siting of replacement mobile homes pursuant to Section 723.041(4), F.S., and development under an approved Conditional Use Permit. **Since approval of this Ordinance by the Development Review Committee, Staff is proposing the following addition to Section 4, Exemptions:**

“The redevelopment and conversion of multi-family rental housing and/or mobile home parks if all of the following conditions are met:

- 1. Development approval shall be pursuant to a Major Conditional Use Permit regardless of the requirements of Chapter 9.5, Monroe County Code; and*
- 2. At least forty (40) percent of the total number of dwelling units and/or mobile homes to be redeveloped or converted shall be designated for affordable housing through placement of a restrictive covenant on each unit pursuant to Section 9.5-266(f)(1) to enforce the affordable housing provisions of Chapter 9.5, Monroe County Code and Conditions 3 through 5 below; and*
- 3. The affordable housing shall be restricted to households that do not exceed the Monroe County adjusted median gross annual household income; and*
- 4. The lease and occupancy of all affordable housing units shall be pursuant to the provisions of Chapter 9.5, Monroe County Code; and*
- 5. The maximum sale price of any affordable housing unit shall be no greater than 4.25 times the Monroe County median gross annual household income.”*

Definitions -The following definitions apply in this ordinance:

1. Conversion means a change in use as defined under Chapter 9.5, Monroe County Code.
2. Mobile home park means any real property that is governed by Chapters 513 and 723, Florida Statutes.
3. Mobile home has the same definition as set forth in Sections 320.01(2)(a), 513.01(3) and 723.003(3), Florida Statutes.
4. Multi-family rental housing means five (5) or more attached and/or detached dwelling units, including mobile homes not in a mobile home park, on a parcel or contiguous parcels under common ownership leased or have been available for lease of tenancies of thirty (30) days or more within three-hundred sixty five (365) days prior to the effective date of this moratorium.
5. Redevelopment means the proposed removal, replacement or demolition of existing dwelling units or mobile homes for the purpose of constructing on the property attached or detached dwellings units that are built outside the footprints of existing structures and/or are built to have a total enclosed habitable floor area greater than the existing structures.

In addition to the addition discussed above to Section 4 of the Ordinance, Staff recommends making the following modifications:

Section 6: Replace the phrase “...no building permit application or planning approval” to read: “...no application for a building permit or development approval...”

Section 9: Replace the phrase “...prohibit the issuance of a building permit or planning approval...” to read: “prohibit application for, or the issuance of a building permit or development approval...”

These modifications are reflected in the attached Interim Development Ordinance, with the footer dated March 16, 2005.

Staff Recommendation

Staff recommends that the Planning Commission recommend approval to the Monroe County Board of County Commissioners the attached Interim Development Ordinance, with the modifications as stated above, deferring the acceptance of development applications for the redevelopment and conversion of five units or more of multi-family rental housing and/or mobile home parks until land development regulations and comprehensive plan amendments are drafted; providing for exemptions and providing for expiration within 365 days or when the 2010 Comprehensive Plan and LDR amendments become effective, whichever comes first.

cc: Timothy J. McGarry, Director of Growth Management
K. Marlene Conaway, Director of Planning and Environmental Resources
Kerry Willis, Esquire
Elizabeth La Fleur, Director, Lower Keys Planning Team
David Dacquisto, Director, Upper Keys Planning Team

ORDINANCE NO. 2005

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AN INTERIM DEVELOPMENT ORDINANCE DEFERRING THE ACCEPTANCE OF DEVELOPMENT APPLICATIONS FOR THE REDEVELOPMENT AND CONVERSION OF FIVE UNITS OR MORE OF MULTI-FAMILY RENTAL HOUSING AND/OR MOBILE HOME PARKS UNTIL LAND DEVELOPMENT REGULATIONS AND COMPREHENSIVE PLAN AMENDMENTS ARE DRAFTED; PROVIDING FOR EXEMPTIONS AND PROVIDING FOR EXPIRATION WITHIN 365 DAYS OR UNTIL AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST.

WHEREAS, the Board of County Commissioners discussed the need for and loss of affordable housing for the County workforce at their meeting of January 19, 2005; and

WHEREAS, the existing supply of employee and affordable housing is insufficient to meet the current demand for affordable workforce housing; and

WHEREAS, the Rate of Growth Ordinance (ROGO) limits the permits for new housing allocations in the County to maintain hurricane evacuation times; and

WHEREAS, the loss of existing affordable housing through redevelopment is impacting the available supply of such housing for the County workforce; and

WHEREAS, Objective 601.3 of the 2010 Comprehensive Plan directs the County to implement efforts to eliminate substandard housing and to *preserve, conserve and enhance the existing housing stock*; and

WHEREAS, affordable/employee housing has been identified by the Board of County Commissioners as one of three major commitments in the Partnership Agreement with the State approved by the Board on January 21, 2004; and

WHEREAS, multi-family rental housing and mobile home parks in the County serve a vital role in providing affordable workforce housing for those persons who live and work in the County; and

WHEREAS, economic pressure is increasing to convert the existing affordable multi-family rental housing and mobile home parks to different housing types that are no longer affordable for County workforce; and

WHEREAS, a number of owners of this housing are exploring the possible change of use of their property, which will further decrease the existing supply of affordable and employee workforce housing; and

WHEREAS, conversion of existing multifamily rental housing and/or mobile home parks into residential dwellings (condominiums), often in gated communities for use as “vacation rentals” will further reduce the availability of housing units that are currently affordable in the County; and

WHEREAS, Chapter 380.0552 (7) F.S., “Principals for Guiding Development” requires the County to conduct programs and regulatory activities to *(j) make available adequate*

affordable housing for all sectors of the population of the Florida Keys; and

WHEREAS, in order to make effective the preservation of existing affordable housing while the County prepares regulations to implement the Objective and Guiding Principle of Chapter 380 F.S., it is necessary to temporarily halt redevelopment of existing multi-family housing and/or mobile home parks; and

WHEREAS, the County recognizes the need to develop comprehensive plan and land development regulations and programs to preserve the existing stock of affordable housing and increase the availability of affordable housing for those who live and work in the Florida Keys; and

WHEREAS, the County has committed necessary staff and resources to the development of permanent policies and regulations; and

WHEREAS, the utilization of the moratorium device as a temporary measure to facilitate government decision making, study and adoption of comprehensive plan and land development regulations is a legitimate governmental tool to facilitate logical and considered growth and as a means of avoiding inefficient and ill-conceived development; and

WHEREAS, the County finds that it is necessary to enact an Interim Development Ordinance deferring the acceptance of development applications that seek development approval for the redevelopment of five units or more of multi-family rental housing and/or mobile home parks so the County can prepare policies and regulations to address the affordable housing needs of those residents; and

WHEREAS, Chapter 125, F.S. authorizes the Board of County Commissioners to adopt ordinances to provide standards protecting against imminent and immediate threat to the health, safety and welfare of the citizens of Monroe County; and

WHEREAS, this Interim Development Ordinance constitutes a valid exercise of the County's police power and is otherwise consistent with Section 163.316, *et seq.*, F.S., which, *inter alia*, encourages the use of innovative land development regulations including provisions like moratoria to implement the adopted comprehensive plan; and

WHEREAS, the Board of County Commissioners at a regular meeting on January 19, 2005 directed staff to prepare an ordinance deferring acceptance of applications for redevelopment of multi-family rental housing and/or mobile home parks, while staff prepares amendments to the 2010 Comprehensive Plan and Land Development Regulations to protect the County stock of existing affordable housing; and

WHEREAS, following direction of the Board of County Commissioners, the Planning Department staff immediately undertook the development of this Interim Development Ordinance and a review of the affordable housing issues facing the County due to the conversion of mobile home parks; and

WHEREAS, the Planning Commission has reviewed the draft Interim Development Ordinance and recommended approval to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners has reviewed and considered the draft Interim Development Ordinance recommended by the Planning Commission and Planning staff; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. The purpose and intent of this Interim Development Ordinance is in accordance with the Board of County Commissioners' directive of January 19, 2005, to prepare an interim development ordinance to prevent the redevelopment and conversion of multifamily rental housing and/or mobile home parks while legislation is being prepared.

Section 2. During the time this ordinance is in effect as specified herein, there shall be a moratorium upon the issuance of building permits, acceptance of development applications or issuance of development orders and development permits within unincorporated Monroe County concerning the matter of redevelopment and conversion of multifamily rental housing and/or mobile home parks to any other use, except as provided herein.

Section 3. The following definitions apply in this ordinance:

- Conversion means a change in use as defined under Chapter 9.5, Monroe County Code.
- Mobile home park means any real property that is governed by Chapters 513 and 723, Florida Statutes.
- Mobile home has the same definition as set forth in Sections 320.01(2)(a), 513.01(3) and 723.003(3), Florida Statutes.
- Multi-family rental housing means five (5) or more attached and/or detached dwelling units, including mobile homes not in a mobile home park, on a parcel or contiguous parcels under common ownership leased or have been available for lease of tenancies of thirty (30) days or more within three-hundred sixty five (365) days prior to the effective date of this moratorium.
- Redevelopment means the proposed removal, replacement or demolition of existing dwelling units or mobile homes for the purpose of constructing on the property attached or detached dwellings units that are built outside the footprints of existing structures and/or are built to have a total enclosed habitable floor area greater than the existing structures.

Section 4. Exempt from this ordinance is the siting of replacement mobile homes pursuant to Section 723.041(4), F.S. and development under an approved Conditional Use Permit. The redevelopment and conversion of multi-family rental housing and/or mobile home parks shall only be exempt from this Ordinance, if all the following conditions are met:

1. Development approval shall be pursuant to a Major Conditional Use Permit regardless of the requirements of Chapter 9.5, Monroe County Code; and
2. At least forty (40) percent of the total number of dwelling units and/or mobile homes to be redeveloped or converted shall be designated for affordable housing through placement of a restrictive covenant on each unit pursuant to Section 9.5-266(f)(1) to enforce the affordable housing provisions of Chapter 9.5, Monroe County Code and Conditions 3 through 5 below; and
3. The affordable housing shall be restricted to households that do not exceed the Monroe County adjusted median gross annual household income; and
4. The lease and occupancy of all affordable housing units shall be pursuant to the

provisions of Chapter 9.5, Monroe County Code; and

5. The maximum sale price of any affordable housing unit shall be no greater than 4.25 times the Monroe County median gross annual household income.

Section 5. Pursuant to its lawful authority and the pending legislation doctrine as set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2d DCA, 1980) the Board of County Commissioners hereby establishes the interim development regulations set forth in this Ordinance, which shall remain in full force and effect until the expiration of this legislation within one year of its effective date or whenever the plan and land development regulations become effective, whichever comes first.

Section 6: Until expiration of the Interim Development Ordinance no application for a building permit or development approval meeting the criteria for review identified in Section 2 hereof shall be granted pursuant to an application or request with a submittal date of March 1, 2005, or later.

Section 7: Any application for a building permit or development approval meeting the criteria for review identified in Section 2 hereof, with a submittal date of February 28, 2005, or earlier, shall be exempt from this Interim Development Ordinance.

Section 8: As of the effective date of this Ordinance no application for a building permit or development approval meeting the criteria for review identified in Section 2 hereof, shall be accepted or processed by the Growth Management Division, except applications exempt hereunder and development awarded a vested rights determination pursuant to Section 7 hereof.

Section 9: This Ordinance shall not be construed to prohibit the application for or the issuance of a building permit or development approval for any development or redevelopment that does not meet the criteria for review identified in Section 2 hereof that is allowed pursuant to the Monroe County Land Development Regulations and the 2010 Comprehensive Plan.

Section 10: Any property owner adversely affected by the provisions of this Interim Development Ordinance may seek a determination that the owner's proposed development or redevelopment is vested against the provisions of this Interim Development Ordinance, by filing with the Director of Growth Management, together with an administrative fee in the amount of \$400, a vested rights application setting forth facts establishing the applicant met, prior to the date that this Ordinance is adopted by the Board of Monroe County Commissioners pursuant to the vested rights standards set forth in Section 9.5-181, Monroe County code. Such application must be filed no later than sixty (60) days after the effective date of this ordinance.

Section 11: The County Administrator is directed to have the Growth Management Division begin immediately preparing the draft text amendments and other supporting studies in cooperation with the Planning Commission in order to address the needs for maintaining the stock of affordable housing for the County workforce.

Section 12. If any section, subsection, sentence, clause, item, charge or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 13. All ordinances or parts of ordinances in conflict with this ordinance are hereby

repealed to the extent of said conflict.

Section 14. The ordinance is hereby transmitted to the Florida Department of Community Affairs pursuant to Chapter 380, Florida Statutes and the DCA is requested to review and approve it by Immediate Final Order, in accordance with F.S.120.569(2)(n), in recognition of the great public importance of preserving affordable housing and to prevent the threat of further loss of affordable housing in Monroe County, as “an immediate danger to the public health, safety, or welfare.”

Section 15. This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving ordinance pursuant to Chapter 380, F.S.

Section 16. This ordinance shall stand repealed as of 11:59 p.m. on the 365th day after adoption of the Ordinance, unless repealed sooner by the Board of County Commissioners or upon the adoption amendments to the comprehensive plan and land development regulations for preserving existing affordable housing.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the ____ day of _____, 2005.

Mayor Dixie Spehar	_____
Mayor Pro Tem Charles “Sonny” McCoy	_____
Commissioner Murray Nelson	_____
Commissioner George Neugent	_____
Commissioner David Rice	_____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY _____

Mayor Dixie Spehar

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

Deputy Clerk